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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/359,562	07/22/1999	DONALD F. GORDON	533/006	2979

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EXAMINER

SAX, STEVEN PAUL

ART UNIT PAPER NUMBER

2174

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/359,562

Applicant(s)

GORDON ET AL.

Examiner

Steven P. Sax

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-16 and 20-33 is/are rejected.
- 7) ☒ Claim(s) 6-7, 17-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This application has been examined. The Amendment filed 5/11/05 has been entered.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 8-16, 20-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schein et al (6263501) and Lobodzinski et al (5768491).

4. Regarding claims 1, see in Schein et al: the abstract, Figure 16A-B, Figure 20A-C, column 2 lines 20-60. Note system having the program guide for an interactive information distribution system. The guide has a video layer and a graphics layer which provides emphasis and de-emphasis of objects in the video layer (for example elements 528, 526 in Figure 20B and 530 in Figure 16B). The video layer is sent from provider equipment to subscriber equipment (Figures 2, 3, column 8 lines 27-50). Schein et al do not specifically state that the video layer is part of the interactive program guide itself, with an object selectively emphasized or de-emphasized by the graphics portion

Art Unit: 2174

of the program guide overlaying the video layer, but do discuss transmission flexibility of user interaction features. In addition, Lobodzinski et al do show the video layer being part of an interactive guide with objects being emphasized or de-emphasized by a graphics layer overlaying the video layer (see Figures 1A, 5A, 5B, 5D, column 2 lines 5-12, column 3 lines 10-15 and 40-50, column 9 lines 25-54). The video object is emphasized by the overlaid graphics layer for transmission flexibility of user interaction features. It would have been obvious to a person with ordinary skill in the art to have this in Schein et al, because it would provide transmission flexibility of user interaction features.

5. Regarding claim 2, the video layer contains a video and graphic region (Schein et al Figures 19A-C for example, and Smith Figures 6A-B with the obviousness as explained above).

6. Regarding claim 3, see again Schein et al Figure 16B and note that the guide is generated in a central location of the system.

7. Regarding claim 4, see Schein et al column 6 lines 50-55. Audio is included.

8. Regarding claim 5, see Schein et al Figures 16A-B again. The region displays a list of program titles.

9. Regarding claim 8, the layers are contained in an applet (Schein et al column 2 lines 63-68).

10. Regarding claims 9, the viewer controls the identity of the emphasized object (Zdepski et al column 5 lines 40-60. This is the way which the feature of Zdepski et al as explained in paragraph 4 of this Office Action works. The obviousness to combine the feature into the EPG of Schein et al is explained in paragraph 4 as well.)

11. Regarding claims 10-11, the objects are selectable and highlighted. See in Schein et al Figures 20A-20C, column 21 lines 1-32 (especially lines 24-26).

12. Regarding claim 12, The graphics layer emphasizes selected objects and de-emphasizes the remainder (Schein et al Figures 20A-20C, column 21 lines 1-32.) That this is in the video layer is obvious based on the feature of Smith explained in paragraph 4 of this Office Action.

13. Regarding claim 13, the objects are program titles (Schein et al Figures 20A-20C)

14. Regarding claims 14-15, the graphics layer is stored or transmitted to a user (Schein et al column 22 lines 22-60.)

Art Unit: 2174

15. Regarding claims 16, in addition to the aforementioned for claim 1, the guide is transmitted via a bitstream (Schein et al column 6 lines 49-60).

16. Regarding claim 20, objects are identified in the display through manipulation of an input device (Schein et al column 21 lines 1-32).

17. Regarding claim 21, objects are emphasized with respect to other objects (Schein et al column 21 lines 1-32).

18. Claim 22, a new context or layout may be emphasized (Schein et al column 17 lines 30-45).

19. Claims 23-24, the new context may be a preview or advertisement (Schein et al column 22 lines 22-30 and 45-67).

20. Regarding claims 25-26, a different program guide may be extracted from the bitstream, with audio common to all guides (Schein et al column 22 lines 22-30 and 45-67).

21. Regarding claims 27, the identification functions may be internal locally at the user (Schein et al column 7 lines 1-31).

Art Unit: 2174

22. Regarding claims 28-29, an object may be selected to go from broadcast to pointcast mode and back to broadcast when the pointcast ends. (See Schein et al column 6 line 68 - column 7 line 31).

23. Regarding claim 30, in addition to that mentioned for claim 16, objects are emphasized with respect to other objects (Schein et al column 21 lines 1-32).

24. Regarding claim 31, when a user selectable emphasized object is selected, the selection is communicated to the service provider, which then sends the corresponding multi-media bitstream (Schein et al column 6 lines 35-60, column 7 lines 1-25).

25. Regarding claim 32, the bitstream may be video on demand movie (column 10 lines 55-67, column 11 lines 1-15).

26. Regarding claim 33, selecting a user selectable emphasized object causes a tuning of an analog channel or digital channel or launching of resident capability (Schein et al column 6 lines 35-60, column 7 lines 1-25).

27. Claims 6-7 and 17-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. These claims bring out the

Art Unit: 2174

masking and revealing features by which the graphics layer provides the emphasis and de-emphasis to the object in the video layer.

28. Applicant's arguments filed have been fully considered but they are not persuasive. Schein et al and Lobodzinski et al do show the general concept of a graphics layer providing emphasis and de-emphasis of a user selectable object in the video layer of the program guide, as recited in claim 1 or claim 16 for example. Schein et al do show the objects in the video layer which may in turn be emphasized or de-emphasized by the graphics layer controls. The graphics layer provides controls to emphasize or de-emphasize video objects accordingly, and Lobodzinski et al show how the video layer is overlaid by the graphics layer. Claim 1 or 16 does not go into the details as to how the graphics layer may provide emphasis or de-emphasis, but simply that it provides it. Schein et al in fact provide the emphasis and de-emphasis via the controls. Note though that claims 6-7 and 17-19, which specifically point out how the overlaying is in fact the very technique used, via masking and revealing, to provide the emphasis and de-emphasis, and these claims do distinguish over the art of record.

29. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

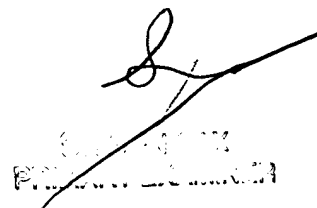
Art Unit: 2174

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

30. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven P. Sax whose telephone number is (571) 272-4072. The examiner can normally be reached on Monday thru Friday, 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink is written over a circular official stamp. The stamp contains the text "UNITED STATES PATENT AND TRADEMARK OFFICE" around the perimeter and "PATENT EXAMINER" in the center.